

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL OF THE
TOWN OF CHAPEL HILL, MONDAY, JUNE 7, 1993 AT 7:30 P.M.

Mayor Broun called the continuation of the public hearing to order. Council Members in attendance were Julie Andresen, Joyce Brown, Joe Capowski, Mark Chilton, Joe Herzenberg, Barbara Powell, Alan Rimer and Arthur Werner. Also in attendance were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller and Town Attorney Ralph Karpinos.

Mayor Broun inquired whether there were any citizens or applicant's representatives to be sworn. Hearing none, he called on Mr. Horton for introductory remarks. Mr. Horton noted that the staff and applicant had furnished additional materials in response to questions raised at the previous hearing on May 11th.

D. R. Bryan, the applicant, said he and his representatives would be available to answer questions following a presentation on stormwater management.

Bruce Ballentine briefly reviewed the proposed site location and its features. Mr. Ballentine said the site drained into Fan Branch and north to Morgan Creek. He stated that one regional stormwater facility was proposed for the site. Mr. Ballentine also said that Wilson Creek and Fan Branch would be protected by Resource Conservation District buffers of seventy-five to one hundred feet. He reviewed proposed locations for creek crossings and possible sites for installation of dual sewer lines. Mr. Ballentine said it was best to locate sewer lines in areas where roads were roughly level or on an upward gradient with a stream. He added that the applicant would work with OWASA and Town staff to design options which moved sewer lines as far away as possible from area streams. Mr. Ballentine also said that best management practices would be used to attain maximum surface flows for pipes and watercourses. He noted that the project's proposed stormwater management plan would be reviewed by the Stormwater Management Committee at its meeting on June 16th.

Mr. Ballentine noted that the Town's stormwater management policy required that peak stormwater runoff could not exceed pre-development levels. He noted that the proposed lake and dam would satisfy the state's stormwater quality requirements.

Mr. Ballentine said that stormwater detention requirements would be handled by individual site until the lake was in place. He briefly reviewed possible locations for dry detention facilities around the proposed site. Mr. Ballentine stated that water coming out of the proposed future lake would be cleaner than when it when into the lake. He stated that the proposed lake would encompass a site of approximately eighteen acres.

Council Member Andresen inquired about the proposed dam location. Mr. Ballentine pointed out the proposed dam and lake locations,

noting that the dam would be earth-filled and have a weir-controlled primary spillway. He added that the dam would either use sheet flow or divert water using a swale to the downstream side of the dam. Mayor Broun inquired about the proposed size of the lake. Mr. Ballentine said the lake would be about two thousand feet long. He added that the lake and dam would need to meet a number of state and federal guidelines, taking at least six months beyond the local government process. Mr. Ballentine said Division of Environmental Management water quality staff had indicated that the proposed dam site was a suitable one. He stated that the dam was primarily a stormwater quality management feature intended to improve water quality for the site and surrounding area. Mr. Ballentine said the proposed system would cut down on peak flows for all types of storms, including ten and one hundred year storms. Mr. Ballentine briefly reviewed possible increases in future flows at various locations around the site. He stated that the developer would comply with state and local stormwater regulations. Mr. Ballentine also said the project would not adversely affect upstream or downstream properties.

Council Member Werner inquired whether the applicant was operating under the assumption that Jordan Lake water quality standards would not have been met until six hundred units were completed. Mr. Ballentine said this was correct and consistent with existing water quality regulations. Council Member Werner inquired whether Mr. Ballentine's interpretation of regulations was correct. Mr. Karpinos said it was correct. He noted that the primary question appeared to be whether regulations could be applied to individual phases of the project. Mr. Karpinos stated that the staff would have to investigate this question. Mr. Ballentine said the matter had been discussed with state officials with the answer seeming quite clear about when regulations applied. Council Member Werner inquired about the proposed action plan until the six hundred units were completed. Mr. Ballentine said other regulations concerning detention ponds and erosion control measures would apply during this time period. Mr. Karpinos noted that the Council could make specific requirements for each special use permit issued in conjunction with the project.

Council Member Capowski inquired whether Council Member Werner's concern was that only a portion of the project might be constructed with the balance uncompleted. Council Member Werner said this was correct. He expressed concern that the entire project might not be completed. Council Member Werner requested that the Town Attorney provide information on how this situation might be addressed. Mayor Broun inquired about the possibility of including applicable language in the master plan. Mr. Karpinos suggested that bonding might be required with each individual phase of the project. Council Member Werner inquired how building the retention pond would affect detention. Mr. Ballentine said the pond would serve the same purpose as detention.

Council Member Werner asked whether detention basins would be needed if a pond were provided. Mr. Ballentine indicated that there could also be principal spillways under roadways. He added that the extent of detention was contingent upon when various parts of the project were constructed. Mayor Broun inquired about the applicant's reaction to the proposal of tying the lake and dam to individual special use permits. Council Member Rimer noted that the applicant's detention and water quality retention proposals were state-of-the-art in terms of stormwater quality. He added that a detention pond was all the Council could theoretically require of the developer prior to the development of less than six hundred units. Council Member Rimer said a retention pond was an added feature being proposed by the applicant. Council Member Werner asked whether the proposed dam could be constructed incrementally. Council Member Rimer said this would not be practical. Mr. Ballentine indicated that his firm had recently constructed a \$500,000 dam for the Triangle Park South project. He suggested that costs for the dam might be attributed to various phases of the project.

Mr. Bryan noted that if the project were abandoned after construction of five hundred units, over two hundred acres would be left undisturbed. Council Member Werner noted that a ten acre subdivision would require a detention basin. Mr. Bryan said this would only be necessary if an impervious surface of twenty-four percent or greater were involved. Council Member Werner asked the Attorney to look into possibilities concerning bonding requirements for regional stormwater systems. He suggested that the developer build a retention pond well before the construction of the project's six hundredth unit. Council Member Werner inquired who would maintain the retention pond. Mr. Bryan said the pond would ultimately be a Town-maintained facility. Council Member Werner noted that the project's master plan would not encumber the land forever. He emphasized the importance of an overall plan for detention basins.

Council Member Brown inquired about the estimated cost of maintaining the detention ponds. Mr. Horton said the staff could work with the applicant to calculate a cost estimate. Council Member Werner inquired how often the detention pond would need to be dredged. Mr. Ballentine said the pond would never need to be fully dredged, although some locations would need to be periodically desilted. Council Member Werner inquired about plans to bond or accumulate funds for building the detention pond facility. Mr. Bryan inquired whether Council Member Werner's concern was that the Town might have to build the detention facility. Council Member Werner stated that some projects took longer than expected to complete or were never completed, leaving some infrastructure improvements incomplete. Mr. Bryan suggested the possibility of putting a restrictive covenant on the land until construction of the pond was completed. Mr. Ballentine said he did not agree that the applicant's plan did not meet the intent of

state law. He added that requiring construction of the lake early in the process would place a burden on the first and second phases of the project.

Council Member Capowski suggested putting funds for a stormwater management facility in an account as construction of units took place. Council Member Rimer suggested that the developer and staff work on the specifics of the plan. Council Member Rimer noted that failures pertaining to stormwater facilities tended to occur in maintenance of facilities, rather than during their construction. Council Member Werner emphasized the importance of adequate construction and maintenance of stormwater facilities. Mayor Broun suggested that the applicant work with the Manager and Attorney on how to handle construction and maintenance of stormwater management facilities.

Council Member Capowski inquired about the proposed dam's delta height. Mr. Ballentine said between thirteen and fifteen feet. Council Member Capowski asked whether gates would be installed to control the height of the lake. Mr. Ballentine said it would be possible to drain the lake or adjust its level. Council Member Capowski requested that the staff comment on possible liability issues related to storing fourteen feet of water in a man-made lake. He also inquired whether service stations were permitted in the village district. Mr. Karpinos said yes. Mr. Ballentine noted that underground storage needed to be double-walled. Council Member Capowski inquired about proposed site detention ponding. Mr. Ballentine said the ponds would hold water for a number of hours, with levels subsiding slightly over time. Council Member Capowski said the detention basin near the hospital's ambulatory care facility looked out of place. Mr. Ballentine said the applicant would look for areas which were natural locations for detention. He stated that drainage pipes could be installed underneath roadways near creeks. Council Member Andresen requested that the Manager make an independent evaluation of cost of maintaining stormwater management facilities.

Mayor Broun requested that the applicant review differences from the original project proposal. Mr. Bryan reviewed the changes including a request to increase the maximum store size for retail uses from 10,000 to 15,000 square feet to permit a grocery store. He also requested a clarification of when traffic signalization would be installed. Mr. Bryan noted that entry road to the site's stormwater facility needed to be accessible to the developer and the Town. He also requested a modification in duct bank requirements for locating utility lines. Mr. Bryan said he was willing to follow the Parks and Recreation Commission's recommendations concerning active recreation facilities. He also provided a clarification of conditions pertaining to public rights-of-way. A copy of the applicant's requested modifications is on file in the Clerk's Office.

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Mayor Broun inquired whether the applicant agreed with all of the Parks and Recreation Commission's recommendations. Mr. Bryan said yes.

Council Member Rimer inquired about the applicant's request for deletion of a duct bank due to the use of PVC pipe. Mr. Ballentine stated that individual utilities typically followed the paving of streets. Stating that duct banks were an ambitious undertaking, Mr. Ballentine suggested that utilities be installed inside of PVC sleeves. He also proposed that the power company install direct cable, leaving adequate room for installing other types of utilities. Mr. Ballentine said he did not see the need for duct banks in any part of the project.

Council Member Chilton inquired who would be responsible for maintenance of alleys. Mr. Bryan said residential alleys would be maintained by homeowners while alleys in commercial areas would be maintained by the Town.

Council Member Werner suggested that the applicant construct a bicycle lane from the site to the University campus. Council Member Capowski inquired about the terminus of the applicant's proposed bicycle path. Mr. Bryan stated that the path terminated near Morgan Creek. Council Member Rimer said although the proposal was a wise one, he did not believe the developer should be asked to construct a bicycle lane all the way to the University campus. Council Member Werner said that the applicant could also be asked to widen U.S. 15-501. Council Member Rimer said this was not the applicant's responsibility either. Council Member Rimer stated that the applicant's plan was well thought out, with some areas needing additional clarification. Council Member Rimer said he hoped that the applicant, staff and Council could make the plan work.

Council Member Andresen noted that the Council had given serious consideration to a public facilities ordinance at one time. She the idea behind the concept was a good one, namely that necessary facilities or a means to pay for them would be in place to accommodate new development. Council Member Andresen said it was a good idea for the developer to provide a bicycle path to the University campus. She commended Council Member Werner for offering the proposal. Council Member Andresen suggested that the applicant might consider providing an off-road bicycle lane.

Mayor Broun said it was hard to disagree in principle with Council Member Andresen's proposal. He said it was reasonable to have the applicant provide infrastructure improvements. Council Member Capowski said the proposal was the single largest development ever considered in the Town, proposing to add 3,000 residents to the Town. Council Member Capowski suggested that the Council take a good hard look at bicycle paths for development. Council Member Brown requested additional information on proposed densities for

the project and the southern area plan.

Mayor Broun inquired whether the applicant had explored the possibility of providing a bicycle path to the University campus. Mr. Bryan said the most difficult matter would be crossing Morgan Creek to link up to the final 1/3 to 1/2 mile to the University campus. Council Member Capowski inquired about the proposed number of parking spaces being requested for accessory dwellings. Mr. Bryan said he was suggesting two spaces per dwelling in addition to on-street parking. Council Member Capowski inquired whether the proposed 26 foot wide streets would be adequate. Mr. Horton said the staff believed this was an appropriate street width. Council Member Capowski expressed concern that parked automobiles might become a problem in the proposed Southern Village. Mr. Bryan stated that similar village-type projects had not experienced these types of problems.

Noting that she was a little disappointed by the scope and depth of the staff's follow-up report, Council Member Andresen said she had a number of additional questions which should would provide in writing to the staff. Mr. Ballentine noted that extension of the proposed bicycle path might involve removal of trees. Council Member Werner suggested that the applicant explore off-road alternatives for bicycle paths.

Mayor Broun noted that the Council had the preliminary recommendations of advisory boards and the Manager. He also noted that the applicant had previously given his statement concerning proposed conditions of approval.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO RECESS THE HEARING TO JUNE 28TH AND REFER THE MATTER TO THE MANAGER AND ATTORNEY. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Hearing on Proposed Commercial Rezonings

Mr. Waldon said staff had little additional information to offer. He noted that some neighborhood commercial (NC) zoning was already in place along U.S. 15-501. Mr. Waldon stated that the applicant was requesting additional commercial zoning in the area. There were no additional comments or questions by citizens or Council Members.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER RIMER, TO RECESS THE HEARING TO JUNE 28TH AND REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Mr. Waldon pointed out the proposed location of R-5c zoning. There were no comments by citizens.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN, TO RECESS THE HEARING TO JUNE 28TH AND REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Special Use Permit Hearings

Mr. Waldon said there was no additional staff comment. Mr. Bryan noted his earlier request for traffic signalization to be tied to the issuance of building permits and signal warrants. There were no comments by citizens.

COUNCIL MEMBER RIMER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO RECESS THE HEARING TO JUNE 28TH AND REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Mr. Waldon said the hearing concerning the proposed special use permit for village green and surrounding area. Mr. Bryan requested that accessory lots fifty feet or wider be permitted to have two parking spaces each. There were no comments by citizens.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER RIMER, TO RECESS THE HEARING TO JUNE 28TH AND REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

The hearings concluded at 9:24 p.m.